



tions, savings and loan holding companies, service corporations, and other persons" (Financial Code section 8050). DSL holds no regularly scheduled meetings, except when required by the Administrative Procedure Act. The Savings and Loan Association Law is in sections 5000 through 10050 of the California Financial Code. Departmental regulations are in Title 10, Chapter 2, of the California Code of Regulations.

MAJOR PROJECTS:

Proposed Delayed Funds Availability Regulations. On October 12, DSL adopted emergency regulatory changes to repeal sections 106.200-.205 and adopt new sections 106.200-.202, Chapter 2, Title 10 of the California Code of Regulations (CCR), in order to comply with the federal Expedited Funds Availability Act (Title VI of Public Law 100-86, enacted on August 10, 1987). The new federal law shortens the hold period which a financial institution may place on checks deposited by customers. (See CRLR Vol. 8, No. 4 (Fall 1988) pp. 80-81 and Vol. 8, No. 1 (Winter 1988) p. 78 for background information.) The new regulations require savings institutions under DSL's jurisdiction to conform to all funds availability requirements established by the Federal Reserve Board in 12 C.F.R. Part 229 *et seq.*

The DSL subsequently noticed its proposal to permanently adopt the regulatory changes adopted on an emergency basis on October 12. Written comments on the proposed changes were accepted by DSL until December 12.

Proposed Escrow Law Regulations Effective. DSL's proposed changes to implement the new authority given to savings associations to act as escrow agents were approved by the Office of Administrative Law (OAL) and became effective on January 6. The new regulations appear in Chapter 2, Title 10 of the CCR. (See CRLR Vol. 8, No. 4 (Fall 1988) p. 89 for background information on these regulatory changes.)

Proposed Changes to DSL's Public Information Regulations. DSL adopted the proposed changes to its regulatory provisions related to information which is available to the public (see CRLR Vol. 8, No. 4 (Fall 1988) pp. 89-90 for background information). The Department sent the rulemaking file to OAL on December 6.

FSLIC Deficit Increases. More than 500 savings and loan institutions across the nation—nearly one-sixth of the country's 3,100 thrifts—are insolvent. In the 1980-87 period, California led the nation

in savings and loan failures, but in 1988 Texas and Oklahoma overtook California for this dubious honor. The sources of the problem are numerous, but deregulation is frequently cited as the main cause. In the early 1980s, Congress enacted laws granting federally-chartered thrifts broad new powers, eliminating previous ceilings on interest rates paid on savings accounts, and giving them the authority to make commercial, corporate, and agricultural loans. At the same time, California and some other states further deregulated their state-chartered savings and loans, providing even greater flexibility than allowed by federal laws.

But even as lending and investment became increasingly unregulated, federal agencies continued to insure deposits. The problem became most acute in the "oil-patch" states of Texas, Oklahoma, and Louisiana when oil prices began to fall in the early 1980s: S&Ls which had made risky investments and loans to speculative energy deals and real estate projects began to face default. Dishonest management in the industry and lax supervision by government regulators also contributed to the problem. Government regulators were slow to impose discipline on failing thrifts, believing time and growth could enable them to resolve their problems. This in turn led savings and loans to make further risky loans and investments.

Amidst all this speculative activity, the Federal Savings and Loan Insurance Corporation (FSLIC) continued to insure S&L deposits. Bank deposits at the nation's 14,000 banks are protected by the Federal Deposit Insurance Corporation (FDIC). In the past, the money to insure deposits by FSLIC and FDIC has come from premiums paid by insured savings and loans and premiums paid by insured banks, not from the federal

government. At the present time, FSLIC has a deficit of \$14 billion and is issuing promissory notes to bail out insolvent savings and loans. In contrast, FDIC has a surplus of \$15 billion. Key issues include the amount by which premiums paid by member thrifts and banks should be raised; whether the FSLIC and FDIC should be merged; and the extent to which Congress and the taxpayers should pay to solve the problem.

Because of the disparity in financial posture between FSLIC and FDIC, the possibility of a merger has obvious appeal, but is a proposal strenuously opposed by FDIC. A merger might be justified on policy grounds because the traditional distinctions between banks and savings and loans have become blurred in recent years. Formerly, thrifts financed home mortgages, and banks served business and commercial customers. Today, savings and loans in a deregulated environment may make a wide variety of real estate loans. Some savings and loans (e.g., Home Federal Savings and Loan Association based in San Diego) are attempting to switch to FDIC. Home Federal will support proposed state legislation that would allow it to become a state-chartered "savings bank," and therefore become eligible for FDIC insurance.

Some form of government bailout seems inevitable, but the extent of taxpayer involvement is a matter of considerable dispute. The Chair of the FDIC claims that the tab will be greater than the total of the Marshall Plan after World War II plus the bailouts of Chrysler Corporation, Lockheed Corporation, Penn Central Railroad, and New York City. However, any federal government support exacerbates the federal deficit problem and would be exceedingly difficult under the Gramm-Rudman deficit reduction requirements.



DEPARTMENT OF INDUSTRIAL RELATIONS

CAL-OSHA

Director: Ronald T. Rinaldi
(916) 322-3640

California's Occupational Safety and Health Administration (Cal-OSHA) is part of the cabinet-level Department of Industrial Relations (DIR). The agency administers California's programs ensur-

ing the safety and health of government employees at the state and local levels.

Cal-OSHA was created by statute in October 1973 and its authority is outlined in Labor Code sections 140-49. It is approved and monitored by, and receives some funding from, the federal OSHA.

The Occupational Safety and Health Standards Board (OSB) is a quasi-legis-



REGULATORY AGENCY ACTION

lative body empowered to adopt, review, amend, and repeal health and safety orders which affect California government employers and employees. Under section 6 of the Federal Occupational Safety and Health Act of 1970, California's safety and health standards must be at least as effective as the federal standards within six months of the adoption of a given federal standard. Current procedures require justification for the adoption of standards more stringent than the federal standards. In addition, OSB may grant interim or permanent variances from occupational safety and health standards to employers who can show that an alternative process would provide equal or superior safety to their employees.

The seven members of the OSB are appointed to four-year terms. Labor Code section 140 mandates the composition of the Board, which is comprised of two members from management, two from labor, one from the field of occupational health, one from occupational safety, and one from the general public.

The duty to investigate and enforce the safety and health orders rests with the Division of Occupational Safety and Health (DOSH). DOSH issues citations and abatement orders (granting a specific time period for remedying the violation), and levies civil and criminal penalties for serious, willful, and repeated violations. In addition to making routine investigations, DOSH is required by law to investigate employee complaints and any accident causing serious injury, and to make follow-up inspections at the end of the abatement period.

The Cal-OSHA Consultation Service provides on-site health and safety recommendations to employers who request assistance. Consultants guide employers in adhering to Cal-OSHA standards without the threat of citations or fines.

The Appeals Board adjudicates disputes arising out of the enforcement of Cal-OSHA's standards.

MAJOR PROJECTS:

Proposition 97 Passes. In the November general election, 53.7% of the California voters approved Proposition 97, an initiative created to restore full funding to Cal-OSHA. (See CRLR Vol. 8, No. 4 (Fall 1988) p. 92 for background information.) Approximately \$8.5 million will be spent during the current fiscal year ending June 30, 1989, to begin restoring the agency to its previous position. Full funding of \$32 million for Cal-OSHA will be available for the 1989-90 fiscal year starting July 1, 1989.

Although satisfied with the results of the election, backers of Proposition 97

recognize the fact that substantial work remains in restoring the Cal-OSHA private sector worker safety program. Among the problems will be rebudgeting money and rehiring staff.

At its December 15 meeting, OSB members announced that DIR has taken initial steps to obtain additional state funding for the current year. The Department has also begun working with the State Personnel Board and the Department of Personnel Administration to develop hiring guidelines. The Department is attempting to restore the program as quickly as possible while adhering to the DIR Director's policy of contacting and offering positions to former Cal-OSHA employees. OSB staff noted that the necessary funding and personnel hiring guidelines would probably be obtained by mid-January 1989.

Regulation Changes. At its November 17 meeting, OSB adopted proposed revisions to Title 8, Boiler and Fired Pressure Vessel Safety Orders, Article 5, sections 779(a) and (b). The existing subsections outline the conditions for issuing a certificate of competency to boiler and pressure vessel inspectors. The changes that were adopted will update the regulations to make them consistent with the rules of the National Board of Boiler and Pressure Vessel Inspectors.

LEGISLATION:

AB 138 (Floyd). Section 6309 of the Labor Code presently provides that whenever DOSH receives a complaint from an employee, an employee's representative, or an employer that a place of employment is not safe, it shall summarily investigate as soon as possible, but not later than three working days after receipt of a complaint charging a serious violation, and not later than 14 days after receipt of a complaint charging a nonserious violation. This bill would instead require the Division to investigate complaints not later than 24 hours after receipt of a complaint charging an imminent hazard or charging a serious violation the existence of evidence of which is short-lived; not later than three working days after receipt of any other complaint charging a serious violation; and not later than 14 days after receipt of a complaint charging a nonserious violation.

Section 6313 of the Labor Code presently requires DOSH to investigate the causes of any employment accident which is fatal to one or more employees or which results in a serious injury, illness, or exposure, unless the Division determines that an investigation is unnecessary. This bill would amend section 6313

to require that accident investigations be initiated within three days after notification of the accident.

AB 138 would also add sections 6308.1 and 6314.1-6314.6 to the Labor Code, which would create a High-Hazard Inspection Team as a separate unit of safety engineers and industrial hygienists within the Division trained to inspect high-hazard workplaces; and would require DOSH, in cooperation with the Division of Labor Statistics and Research, to establish an inspection scheduling system for high-hazard industries in accordance with specified guidelines and requirements.

Section 6320 of the Labor Code requires DOSH, when issuing a citation for a serious violation, to conduct a reinspection at the end of the period fixed for abatement of the violation, or within a reasonable time thereafter. This bill would require the Division, if it issues a special order, order to take special action, or a citation for a serious violation, and the order is not complied with or the violation is not abated at the time of inspection, to conduct a reinspection at the end of the period fixed for compliance with the order or abatement of the violation, or within 30 days thereafter, under specified circumstances.

Section 6321 of the Labor Code provides that no person or employer shall be given advance warning of an occupational safety and health inspection when the investigation or inspection is made as a result of an employee complaint, unless there is an imminent danger to the health or safety of an employee. AB 138 would require DOSH to provide advance notice of an inspection to the complainant if that complainant is an employee or a labor representative of an employee, and that person requests advance notice in order to participate in the inspection, and would prohibit the complainant from divulging the information about the investigation to any other person or to the employer.

Section 6352 of the Labor Code requires DOSH to provide safety training programs, upon request, for employees and employers. This bill would add health training and education programs to this requirement.

AB 138 would also add section 6353.6 to the Labor Code, to require DOSH, in cooperation with the Division of Labor Statistics and Research, to conduct certain research into the relationship of inspection-preventable injuries and illnesses in specified industry classes to standards regulating occupational hazards characteristics of each industry class. This bill is pending in the Assembly Committee on Labor and Employment.



AB 147 (Floyd). The Contractors State License Law requires a contractor whose operations include asbestos-related work involving 100 square feet or more of surface area of asbestos-containing materials to register with DOSH by filing an application containing specified information. This information includes providing health insurance coverage to cover the entire cost of medical examinations and monitoring required by law and being insured for workers' compensation, or providing a \$500 trust account for each employee engaged in asbestos-related work. AB 147 would permit an employer, in addition to the trust account, to provide a surety bond or other approved security, so long as these methods guarantee coverage of the above costs.

Section 6501.8(b) of the Labor Code defines the term "asbestos containing construction material" to mean any manufactured construction material which contains more than one-tenth of 1% asbestos by weight. This bill would amend the definition to mean any manufactured construction material which contains 1% or more asbestos by weight. This bill is pending in the Assembly Committee on Labor and Employment.

AB 148 (Floyd). Section 6501.9 of the Labor Code requires the owner of a commercial or industrial building or structure, employer, or contractor who is engaged in, or contracts for asbestos-related work to make a good faith effort to determine if asbestos is present before the work is begun or incur certain penalties. This bill would also require the owner of a public building to make an effort to determine the presence of asbestos.

Section 6510 of the Labor Code permits DOSH, after inspection or investigation, to apply for an injunction to restrain any activity for which an employer does not have a valid permit as required. This bill would also permit DOSH to apply for an injunction where an employer does not have a valid asbestos registration.

AB 148 would also amend section 6511 of the Labor Code to impose specified civil penalties where an employer performed asbestos-related work without a valid registration. This bill is pending in the Assembly Committee on Labor and Employment.

LITIGATION:

At this writing, *Ixta, et al. v. Rinaldi*, No. C002805 (Third District Court of Appeal), remains pending before the California Supreme Court. (See CRLR Vol. 8, No. 4 (Fall 1988) p. 92; Vol. 8, No. 3 (Summer 1988) pp. 98-99; and Vol. 8, No. 1 (Winter 1988) p. 85 for background information.) The case has

received much attention following the passage of Proposition 97 in November, and the parties await action by the court.

RECENT MEETINGS:

At its October 13 meeting in San Francisco, OSB granted permanent variances to the following entities: Manroa-Dhillon Investments and San Francisco Unified School District from section 3000(c)(13), Title 8 (Elevator Safety Orders); and Oustomah Lodge No. 16 from section 3000(d)(11), Title 8 (Elevator Safety Orders).

Also at the October meeting, the OSB denied various petitions concerning proposed stricter requirements on workers who operate cranes. The majority of the Board members denied the petitions on the basis that the extent of any problem involving crane operators is not apparent at this time. Furthermore, most Board members opined that existing regulations are adequate to address any problem that does exist.

One Board member, Roy Brewer, disagreed with the Board's decision on the petitions, and argued that a crane in improper hands is a very dangerous instrument to both employees and the public. He stated that the tremendous increase in the use of cranes on potentially dangerous jobs merits the formation of an advisory committee to explore the area and determine whether stricter requirements are justified. Finally, he stated that there are many other areas where licensing is necessary which require less skill than a crane operator, which currently requires no license. In response to Mr. Brewer's concerns, Board member Edward Maher stated that he feels existing regulations are sufficient to ensure that crane operators are properly trained.

At its November 17 meeting in San

Diego, OSB granted permanent variances to the following entities: General Cinema Theatres, Residence Inn by Marriott, Inc., Santa Monica-Malibu Unified School District, Furnishings 2000, City of Monterey, Studio 101, A General Partnership, and First San Francisco/Berkeley Medical Center from section 3000(c)(13), Title 8 (Elevator Safety Orders); and Masonic Temple Association of Livermore, Inc., from section 3000(d)(11), Title 8 (Elevator Safety Orders).

At its December 15 meeting in Sacramento, OSB granted permanent variances to the following entities: City of Sacramento from sections 3364(a) and 3366(f), Title 8 (General Industry Safety Orders); Aerojet TechSystems Company from section 460(c) and (d), Title 8 (Unfired Pressure Vessel Safety Orders); and Ship Parts, Inc., from section 462(m)(3)(C), Title 8 (Unfired Pressure Vessel Safety Orders).

Also at its December 15 meeting, OSB discussed a proposed petition decision for adoption, in which petitioners International Woodworkers of America and Senator Barry Keene requested an amendment to the Logging and Sawmill Safety Orders regarding spiking trees. In particular, petitioners suggested that the Board examine current regulations in this area and consider further regulations to protect workers from injuries by a saw that explodes after hitting a spike or other object in a log being milled. The Board granted the petition to the extent that it was referred to an advisory committee for further study.

FUTURE MEETINGS:

March 23 in San Diego.

April 20 in Sacramento.

May 18 in Los Angeles.

June 22 in San Francisco.



DEPARTMENT OF FOOD AND AGRICULTURE

DEPARTMENT OF FOOD AND AGRICULTURE

Director: Jack Parnell
(916) 445-7126

The Department of Food and Agriculture (CDFA) promotes and protects California's agriculture and executes the provisions of the Agriculture Code which provide for the Department's organiza-

tion, authorize it to expend available monies and prescribe various powers and duties. The legislature initially created the Department in 1880 to study "diseases of the vine." Today the Department's functions are numerous and complex.

The Department works to improve the quality of the environment and farm community through regulation and control of pesticides and through the ex-